IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 328 of 1986

in

SPECIAL CIVIL APPLICATIONNo 5016 of 1986

For Approval and Signature:

HON'BLE MR.JUSTICE R.K.ABICHANDANI
and
HON'BLE MR.JUSTICE K.M.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

VINODKUMAR HEMATRAM DAVE

Versus

THE STATE OF GUJARAT NOTICE SERVED THROUGH

Appearance:

1. LETTERS PATENT APPEAL No. 328 of 1986
PARTY-IN-PERSON - Appellant - Absent
MR MS RAO, AGP for Respondent No. 1
MR AD OZA for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE R.K.ABICHANDANI

and

HON'BLE MR.JUSTICE K.M.MEHTA

Date of decision: 08/10/2003

ORAL JUDGEMENT

(Per : HON'BLE MR.JUSTICE R.K.ABICHANDANI)

1. The appellant challenges the judgement and order dated 26-9-1986 in Special Civil Application No.5016 of 1986 of the learned Single Judge rejecting his petition in which he had prayed for a direction on the State for framing special statutory provisions for conduct of H.S.C. examinations, and a direction on the Gujarat Secondary Education Board not to conduct the H.S.C. examination. A further direction was sought to conduct an inquiry into the matter of leakage of H.S.C. Science Stream papers in the year 1983 and 1986.

2. The learned Single Judge rejected the contention of the petitioner that Section 17(27) of the Secondary Education Act did not empower the Board to hold the H.S.C. examination. As regards the allegation of leakage of question paper, the learned Single Judge has noted that the Board had lodged the FIR and had already taken appropriate legal action. Therefore, no further direction was required to be issued on that count to the Board.

3. Under Section 17(2) of the said Act, powers and duties of the Board include holding of such other examinations as may be decided upon by the Board or entrusted to it by the State Government. These words were wide enough to empower the Board not only to hold Secondary School Certificate examinations, but also to hold such other examinations as may be decided by the Board or the examinations that the Board may be required by the State to hold. The Higher Secondary Certificate Examination Regulations, 1977, which relate to conducting of the H.S.C. examination have been framed by the State Government and on the combined reading of the provision of Section 17(27) and the said Rules, it was clear that the Board was empowered to hold H.S.C. examination. The learned Single Judge was, therefore, right in rejecting the petitioner's contention that the Board could not have held the H.S.C. examination in absence of a statutory empowerment.

4. On the other count about leakage of question paper, the Board admittedly had lodged the FIR and nothing was, therefore, required to be done by the Board on that count. The learned Single Judge was, in our

opinion, right in holding that there remained no question of giving any direction for conducting any other inquiry or punishing the persons who may be responsible for the leakage of the question papers at this stage.

5. We find ourselves in complete agreement with the reasoning adopted by the learned Single Judge for rejecting the petition. The appeal is, therefore, dismissed with no order as to costs.

[R.K.ABICHANDANI, J.]

[K.M.MEHTA, J.]

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